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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,061	01/10/2000	ART MALIN	769-197CIP-D	3852
29540	7590	08/25/2004	EXAMINER	
PITNEY HARDIN LLP 7 TIMES SQUARE NEW YORK, NY 10036-7311			MEREK, JOSEPH C	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/480,061

Applicant(s)

MALIN ET AL.

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01/10/2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/31/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

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Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 6/1/04 has been entered.

Drawings

The examiner has disapproved the proposed drawing correction. The drawing still fails to show a fin or a lap seal let alone one that is substantially perpendicular to the lap or fin seal. The lap or fin seal is not shown in any of the drawings.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "a lap or fin seal extending substantially perpendicular to the zipper" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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Specification

The amendment filed 6/1/04 is objected to since the examiner has disapproved the drawing correction. The reference numeral 300 should be canceled from the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 14 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 14, it has not been adequately disclosed that the fin or lap seal is substantially perpendicular to the zipper. The disclosure does support the substantially perpendicular relationship. Moreover, the term substantially was not defined in the specification. The specification states that the zipper is secured to the sheet transversely across the sheet. There is no correlation between the position and the substantially perpendicular to the fin or lap seal.

This is a new matter rejection. The remaining claim is included since they stem from rejected claims.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over May et al (5,660,479) in view of Uramoto (RE 33,674).

Regarding claim 14, May et al teaches the claimed structure but does not teach the sealed edges or the lap or fin seal being substantially perpendicular to the zipper. Uramoto as seen in Figs. 2-5, teaches a similar bag with a zipper with side sealed edges where the seals are a lap seal and are substantially perpendicular to the zipper as well as a bottom seal 16. It would have been obvious to employ the side seals and bottom seal of Uramoto in the bag of May et al to provide a way to close the sides and the bottom of the bag as taught by Uramoto. See Fig. Figure 2 and 4, of Uramoto where the side end seals are 12a and 12b. Uramoto also shows the bottom closed by seal 16. The top of May et al is sealed as seen in Fig. 6 and 7. So the modified bag of May et al has seals at the top and bottom and both sides. The side seals are perpendicular to the zipper.

Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over May et al (US 5,660,479) in view of Yeager (WO 97/06062) or JP 62-273839. Regarding claim 14, May et al teaches the claimed structure but

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does not teach the sealed edges or the lap or fin seal being substantially perpendicular to the zipper. Yeager and JP 62-273839 as seen in their respective Figures, teach a similar bag with a zipper with side sealed edges where the seals are a lap seal and are substantially perpendicular to the zipper as well as a bottom seal 16. It would have been obvious to employ the side seals and bottom seal of Yeager or JP 62-273839 in the bag of May et al to provide a way to close the sides and the bottom of the bag as taught by either reference. See the figures of both the tertiary references where the seal is shown. The ends are sealed as well. The top of May et al is sealed as seen in Fig. 6 and 7. So the modified bag of May et al has seals at the top and bottom and both sides. The side seals are substantially perpendicular to the zipper.

Response to Arguments

Applicant argues that the May et al in combination with Uramoto does not teach the claimed invention. This is incorrect. The bag of May et al as modified by Uramoto has a top seal as seen in Fig. 6 and 7 of May et al a bottom seal as seen in Fig. 3 of Uramoto and side seals as seen in Figs. 2 and 4 of Uramoto. It is the side seals of Uramoto that are perpendicular to the zipper as shown in Fig. 2, 12 e is the closed top due to the bag being formed of a single sheet as seen more clearly in Fig. 1 which is as applicant contends parallel to the zipper. The examiner is not relying on these seams. Uramoto also teaches side seams 12 a

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and 12 b seen in Fig. 2. Seals 12a and 12b are clearly perpendicular to both seal 12e and the zipper profiles 13a and 14a.

Applicant argues that it is inherent that the lap or fin seal of the instant invention is substantially perpendicular to the zipper since the zipper is transverse to the machine direction and the fin or lap seal is along the machine direction. The specification of the instant invention do not provide any correlation between the claimed relationship and the disclosed relationship. The term substantially is not defined in the specification. Therefore the examiner continues to maintain that this represents new matter.

Applicant's arguments with respect to claims 14 and 16 have been considered but are moot in view of the new ground(s) of rejection.

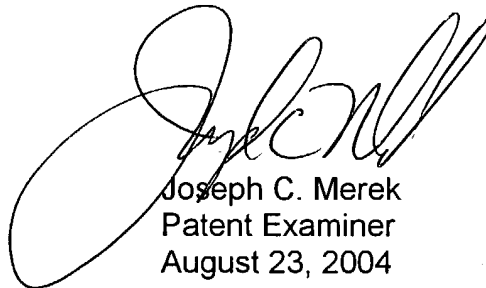
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph C. Merek
Patent Examiner
August 23, 2004